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REC'D TN
REGULATORY AUTH.

Guy M. Hicks
General Counsel

July 28, 1999 JUL 28 AM 11 54

OFFICE OF THE
EXECUTIVE SECRETARY

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *BellSouth Telecommunications, Inc.'s Tariff for Implementation of Intrastate
Directory Assistance Charges*
Docket No. 99-00391

Dear Mr. Waddell:

Enclosed for review and approval by the Directors is an Order Approving Tariff Filing in the above-referenced matter.

Very truly yours,


Guy M. Hicks

GMH:ch
Enclosure

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

REC'D TN
REGULATORY AUTH.

'99 JUL 28 AM 11 54

In Re: BellSouth Telecommunications, Inc.'s)
 Tariff for Implementation of Intrastate)
 Directory Assistance Charges)

Docket No. 99-00391 OF THE
EXECUTIVE SECRETARY

ORDER APPROVING TARIFF FILING

This matter came before the Tennessee Regulatory Authority ("Authority") for consideration of BellSouth Telecommunications, Inc.'s ("BellSouth") tariff for implementation of intrastate directory assistance charges. This tariff would increase the rates for intrastate directory assistance from zero to 29¢ per call, subject to an allowance of six (6) calls at no charge per monthly billing cycle. As originally filed, the tariff contained exemptions from directory assistance charges for customers certified to be disabled as well as customers certified to be 65 years of age or older. In response to concerns by the Authority, BellSouth subsequently filed an amended tariff which extended the exemptions to disabled individuals or individuals 65 years or older who may not be a BellSouth subscriber but live at the subscriber's residence on a permanent basis.

On June 15, 1999, the Consumer Advocate Division of the Office of the Attorney General ("Consumer Advocate") filed a "Petition for Declaratory Order, Complaint and Petition for Injunctive Relief" ("Petition"). In its Petition, the Consumer Advocate asked the Authority to issue a declaratory order that directory assistance constitutes a basic service for price regulation purposes and that BellSouth is precluded from instituting its tariff under a settlement agreement

entered into with the Consumer Advocate in 1995. The Consumer Advocate also requested that the Authority enjoin BellSouth from placing its Directory Assistance tariff in effect.

A public hearing was held before the Authority on July 27 and July 28, 1999. The following appearances were entered:

Bennett L. Ross, Esquire, Suite 4300, 675 W. Peachtree Street, NE, Atlanta, GA 30375, on behalf of BellSouth.

Vincent Williams, Esquire, Consumer Advocate Division, 426 5th Avenue, N., 2nd Floor, Nashville, TN 37243

Based on the entire record in this case, the Authority makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Tennessee Code Annotated § 4-5-223 permits an affected person to petition the agency for a declaratory order “as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency.” The agency has the discretion to either convene a contested case proceeding or refuse to issue a declaratory order.

The Authority finds that there is no basis for issuing the declaratory order requested by the Consumer Advocate in this case. BellSouth’s tariff to implement a charge for directory assistance as a non-basic service is consistent with Tennessee Code Annotated § 65-5-208(a)(1) as interpreted by a majority of the Directors in *United Telephone-Southeast, Inc. Tariff No. 96-201, To Reflect Annual Price Cap Adjustment*, Docket No. 96-01423 (September 4, 1997). In that case, the Authority rejected the same argument that the CAD raises here that directory assistance is a basic service under the term “usage” as found in Tennessee Code Annotated § 65-5-208(a)(1). BellSouth’s directory assistance tariff is consistent with United’s directory assistance tariff, which was approved by a majority of the Directors.

The Authority also finds that there is no basis to convene a contested case to consider the CAD's complaint. The Authority has the discretion whether to convene a contested case to consider complaints filed with the agency, and the Authority declines to exercise such jurisdiction here. The settlement agreement upon which the CAD's complaint is based was conditioned upon approval by the former Public Service Commission, as the Consumer Advocate acknowledged. Because the Commission never approved the settlement agreement and because the Consumer Advocate did not preserve the settlement after the Commission ceased to exist, the proposed settlement is not binding on either the Consumer Advocate or BellSouth.

The Authority finds that BellSouth's tariff is just and reasonable and complies with all applicable statutory requirements.

IT IS THEREFORE ORDERED:

1. That BellSouth's Directory Assistance tariff as amended is hereby approved as filed effective July 28, 1999;
2. That the Consumer Advocate's Petition is hereby denied;
3. That any party aggrieved with the Authority's decision in this matter may file a petition for reconsideration with the Authority within ten (10) days from and after the date of this order; and

4. That any party aggrieved with the Authority's decision of this matter has the right to judicial review by filing a petition for review by the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this order.

CHAIRMAN

DIRECTOR

DIRECTOR*

ATTEST:

Executive Secretary

*Consistent with her previously stated views on charges for directory assistance, Director Kyle did not vote with the majority in the approval of BellSouth's tariff and the denial of the Consumer Advocate's Petition.

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CERTIFICATE OF SERVICE

I hereby certify that on July 28, 1999, a copy of the foregoing document was served via the method indicated:

- ☐ Hand
- ☐ Mail
- ☒ Facsimile
- ☐ Overnight

Vincent Williams, Esquire
Consumer Advocate Division
426 5th Avenue, N., 2nd Floor
Nashville, TN 37243


